

REMARKS

[0003] Applicant respectfully requests entry of the following remarks and reconsideration of the subject application. Applicant respectfully requests entry of the amendments herein. The remarks and amendments should be entered under 37 C.F.R. §1.116 as they place the application in better form for appeal, or for resolution on the merits.

[0004] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1, 5-9, 11-12, 27-28, and 31-33 are presently pending. Claims amended herein are 1, 5, 27 and 31. Claims withdrawn or cancelled herein are 2-4, 10, 13-26, 29-30, and 34-43. New claims added herein are 44-46.

Statement of Substance of Interview

[0005] The Examiner graciously talked with me—the undersigned representative for the Applicant—on Oct 23, 2007. Applicant greatly appreciates the Examiner's willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

[0006] During the interview, I discussed how the claims differed from the cited art, namely Servan-Schreiber (hereinafter Servan) and Armstrong. Without conceding the propriety of the rejections and in the interest of expediting prosecution, I also proposed several possible clarifying amendments.

[0007] I understood the Examiner to tentatively agree that independent claims 1 and 27 would be patentable over the cited art if amended as discussed

during the interview. However, the Examiner indicated that he would need to review the cited art more carefully and/or do another search, and requested that the proposed amendments be presented in writing.

[0008] Applicant herein amends the claims in the manner discussed during the interview. Accordingly, Applicant submits that the pending claims are allowable over the cited art of record for at least the reasons discussed during the interview.

Formal Request for an Interview

[0009] If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0010] Please contact me or my assistant to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for us, I welcome your call to either of us as well. Our contact information may be found on the last page of this response.

Claim Amendments and Additions

[0011] Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 5, 27 and 31 herein.

[0012] Furthermore, Applicant adds new claims 44-46 herein, which are directed towards implementing a stitched-reference playlist. These new claims are fully supported by Application and therefore do not constitute new matter. Please see the pages 15-18 in the specification and Figure 8.

Substantive Matters

Claim Rejections under §§ 103

[0013] Claims 1, 5-9, 11-12, 27-28, and 31-33 are rejected under 35 U.S.C. § 103. In light of the amendments presented herein and the decisions/agreements reached during the above-discussed Examiner interview, Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

[0014] Applicant also notes for the record, that although claim 11 was referenced in the Office Action dated 8/3/07 on page 4 paragraph 12 as being rejected under *Servan* in view of *Armstrong*, and further in view of *Katseff*, the Examiner has failed to specifically address the claim and its elements in the rejection.

[0015] The Examiner's rejections are based upon the following references in combination:

- **Servan:** *Servan-Schreiber, et al.*, US Patent No. 6,892,354 (issued August 10, 2005);

- **Armstrong:** *Armstrong, et al.*, US Patent Application Publication No. 2005/0256941 (filed July 20, 2005);
- **Dunlap:** *Dunlap, et al.*, US Patent No. 6,760,749 (issued July 6, 2004);
- **Katseff:** *Katseff, et al.*, US Patent No. 5,822,537 (issued Oct 13, 1998);
- **Nakayama:** *Nakayama, et al.*, US Patent No. 6,493,748 (issued Dec 10, 2002);
- **Lin:** *Lin*, US Patent No. 6,369,835 (issued April 9, 2002)

Overview of the Application

[0016] The Application describes a technology for viewing a static image for a quick start-up playback while buffering video content that a user accesses.

Cited References

[0017] The Examiner cites Servan as its primary references in its obviousness-based rejections. The Examiner cites Armstrong as its secondary reference in its obviousness-based rejections.

Obviousness Rejections

Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)

[0018] Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a prima facie case have not been met.

Based upon Servan and Armstrong

[0019] The Examiner rejects claims 1, 5, 6, 12, 27, 28, 31 and 32 under 35 U.S.C. § 103(a) as being unpatentable over Servan in view of Armstrong. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

Independent Claim 1

[0020] The Examiner indicates (Action, p. 2) the following with regard to this claim:

Servan shows receiving an advertisement from a content provided (Fig 1), displaying said advertisement for at least a fixed duration (Fig 1, col. 3 lines 26-30), transmitting and loading (comprising buffering) new content (Abstract) and wherein the advertisement is displayed beyond the fixed duration if the buffering is not complete when the fixed duration expires (Abstract, col. 3 lines 26-30)

The Examiner then relies upon Armstrong to account for the claimed elements that the advertisements (in Servan) is a static image and the buffered content is video content.

However, Servan and Armstrong, alone or in combination fail to disclose at least the following with respect to claim 1:

a user selecting video content;

after the selecting, *receiving a static image from a content provide;*

Instead, Servan discloses a system that provides the downloading of full page advertisements to a user's computer during a communication link idle time. (Abstract) These advertising pages to be displayed are cached and stored prior to a user selecting a new web page to be displayed. (Please see Servan Col 3 Lines 22-27 and 65-67) As a result there is no association between the advertisement and the web content that the user selects, as shown in Fig 5A of Servan, where a Reebok advertisement is displayed when a user is trying to access a news site. In contrast, the claim recites that the static image is received from a content provider after the user selects a video content.

Additionally, Armstrong discloses a system that provides rich media content to a client to be displayed, by polling the client in of its availability of software and/or hardware necessary for the display of the rich media content so that an appropriate formatted version of the rich media file can be sent. (Abstract) There is no disclosure of sending or receiving a static image to be displayed after a video content is selected by a user as recited in the claim.

[0021] As shown above, the combination of Servan and Armstrong does not disclose all of the claimed elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim. Furthermore, claim 27 recites features similar to claim 1, and for the reasons set forth above, is also allowable.

Dependent Claims 5-9, 11-12, 28, 31-33 and 44-45

[0022] These claims ultimately depend upon independent claims 1 and 27. As discussed above, claims 1 and 27 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Dependent Claims 44 and 45

With regard to claims 44 and 45, Servan and Armstrong, along with the other cited art, alone or in combination, fail to disclose at least the following with respect to claims 44 and 45:

*implementing a **stitched-reference play-list** referring to a single play-list file that **includes a reference to the static image and a reference to the video content** stored on the content provider; and*

The claimed elements as emphasized above define the association of the static image and the video content, as they are referenced by a single, stitched-reference play-list. As a result, a static image referenced by the stitched-

reference playlist is displayed to the user while the video content is buffering. (Please see the pages 15-18 in the specification and Figure 8)

There is no disclosure of a stitched-reference playlist in either Servan or Armstrong. Additionally, Examiner cites Kasteff and Nakayama in the rejection of claim 8, alleging that these references "...implement a play-list that includes reference to a static image stored on a content provider...". (Office Action p. 5) While not conceding the propriety of these rejections, it is noted that neither of these references disclose a stitched-reference play-list referencing a video content and a static image as specified in claims 44 and 45. As previously noted, the Examiner has failed to provide a reference that implements a play-list referencing a video content as specified in claim 11.

Independent Claim 46

With regard to claim 46, Servan and Armstrong, along with the other cited art, alone or in combination, fail to disclose at least the following with respect to claim 46:

*a user selecting a video content, **the video content being linked to a stitched-reference play-list, wherein the stitched-reference playlist refers to a single play-list file that is configured to provide instructions in order to implement quick display of one or more referenced content and transitions between the one or more referenced content;***

after the selecting,** receiving a static image from a content provider, wherein the receiving a static image from the content provider **implements the

stitched-reference playlist that includes a reference to the static image;

displaying the static image for, at least, a fixed duration; and

buffering video content from the content provider during the displaying, wherein the buffering video content from the content provider implements the stitched-reference playlist that includes a reference to the video content,

wherein the static image is displayed beyond the fixed duration if the buffering is not complete when the fixed duration expires.

The claimed elements as emphasized above further define features of the application not disclosed in the cited art. As argued above, the cited art fails to disclose that in response to a user selecting a video content, an associated stitched-reference play-list is implemented in order to provide instructions for a quick startup. The stitched-references play-list provides ordered content to be displayed to an end user. The content includes a static image and/or video content, and the quick startup instructions include displaying the static image while a video content is buffering.

Dependent Claims

[0023] In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant requests that the Examiner withdraw the rejection of each dependent claim where its base claim is allowable.

Conclusion

[0024] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call/email me or my assistant at your convenience.

Respectfully Submitted,

Dated: 10/25/07

By: /Jacob Rohwer/
Jacob Rohwer
Reg. No. 61229
(509) 324-868-8323
jacob@leehayes.com
www.leehayes.com

My Assistant: Carly Bokarica
(509) 324-9256 x264
carly@leehayes.com